

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RICHARD BARTOLETTI, JR.,)	
)	
Plaintiff,)	
)	
v.)	
)	Civil Action No. 07-439
COUNTY OF BEAVER, <i>et al</i> ,)	Chief Judge Ambrose
)	Magistrate Judge Caiazza
Defendants.)	

MEMORANDUM ORDER

Richard Bartoletti's ("Bartoletti" or "the Plaintiff") Complaint filed pursuant to 42 U.S.C. §1983 was received by the Clerk of Court on April 3, 2007, and was referred to United States Magistrate Judge Francis X. Caiazza for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report, filed on February 1, 2008, recommended that the Motion to Dismiss filed by William Shouppe, the Beaver County Prison, the Beaver County Prison Board, and the County of Beaver (Doc. 5) be granted; that the Motion to Dismiss filed by the Defendant Southern Health Partners, Inc. (Doc. 11) be granted without prejudice for lack of service; and that the claims against John Doe and Jane Doe Corrections Officers be dismissed without prejudice for lack of service. The parties were allowed ten days from the date of service to file objections. The Objections filed by the Plaintiff on February 11,

2008 (Doc. 22) addressed only the recommendation related to Southern Health Partners, Inc. Further, Bartoletti has filed a return of service for Southern Health Partners, Inc., reflecting receipt of the Complaint by that Defendant on August 24, 2007 (Doc. 17).

Specifically, service of the Complaint was made on Southern Health Partners, Inc., on August 24, 2007, or twenty-one days after the 120-day period for purposes of Rule 4(m). Although the waiver of service form was not filed until February 11, 2008, it is clear that Defendant Southern Health Partners, Inc., had notice of the lawsuit, and that no prejudice has accrued due to the late filing of the waiver by the Plaintiff. Therefore, the Court will deny Southern Health Partners Motion to Dismiss. The remainder of the recommendations made by the Magistrate Judge are not challenged in the objections and, therefore, will be adopted by the Court.

After de novo review of the pleadings and documents in the case, together with the Report and Recommendation and the Objections, the following ORDER is entered:

AND NOW, this 11th day of March, 2008,

IT IS HEREBY ORDERED that the Motion to Dismiss filed by William Shouppe, the Beaver County Prison, the Beaver County Prison Board, and the County of Beaver (Doc. 5) is GRANTED.

IT IS FURTHER ORDERED that the Motion to Dismiss filed by

the Defendant Southern Health Partners, Inc. (Doc. 11) is DENIED.

IT IS FURTHER ORDERED that the claims against John Doe and Jane Doe Corrections Officers are DISMISSED WITHOUT PREJUDICE for lack of service.

The Report and Recommendation of Magistrate Judge Caiazza, (Doc. 14), dated February 1, 2008, is adopted as the opinion of the court, except for the recommendation related to the Motion to Dismiss filed by Southern Health Partners, Inc.

s/Donetta Ambrose
Donetta Ambrose
Chief U.S. District Court Judge